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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/597,850	08/09/2006	Uwe Berger	20794/0205078-US0	7034
7278	7590	12/23/2008		
DARBY & DARBY P.C. P.O. BOX 770 Church Street Station New York, NY 10008-0770			EXAMINER JENNISON, BRIAN W	
			ART UNIT	PAPER NUMBER
			4184	
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			12/23/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/597,850

**Applicant(s)**

BERGER ET AL.

**Examiner**

BRIAN JENNISON

**Art Unit**

4184

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 6-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 August 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SE-08)
- Paper No(s)/Mail Date 11/13/2006
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, **the return element in claim 10, lines 1-2 and the damping device of claim 11, line 2 and claim, 12 line 2** must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Objections***

2. Claim 10 is objected to because of the following informalities: Line 2 of the claim recites "t return element" please change to --the return element--. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 6, 7, 9-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Walkoe (US 2,907,859) as cited by applicant.**

Walkoe teaches:

**Regarding Claim 6:** A method for operating a cooking appliance having a cooking appliance control system (**Circuit and timer control. See Column 2, Lines 20-23**) and a door moveable between a closed position and an open position, the method comprising: (**Fig 2 shows door 7 in a closed position and is movable to an open position. See Column 3, Lines 1-2**)

automatically moving the door from the closed position to the open position using the cooking appliance control system when a cooking process is complete; and (**The door**

**7 is moved from a closed to open position when the cooking process is complete, when a timer expires or when the food reaches a preselected temperature. See Column 2, Lines 5-16)**

automatically returning the door from the open position to the closed position when a physical quantity falls below a predetermined threshold value stored in a memory of the cooking appliance control system. **(The appliance is capable of closing the door when the temperature stored in its memory falls below a value since the device has all the necessary elements for performing this function. The ram will retract to its original position when the circuit is broken, closing the door. See Column 7, Lines 20-25.)**

**Regarding Claim 7: A cooking appliance comprising: (Domestic cooking oven. See Column 1, Line 3)**

a cooking chamber bounded by a housing; **(Electric range 1 comprises a metal body 2 and a cooking cavity 5 with an oven liner 6 making up a cooking chamber bound by a housing. See Column 2, Lines 65-72)** a door moveable between a closed position and a predetermined open position; a cooking appliance control system having a memory; **(When the thermometer control knob is set the temperature value is stored. The timer 14 also performs a similar function for storing time. Fig 2 shows door 7 in a closed position and is movable to an open position. See Column 3, Lines 1-2)**

a sensor disposed in the cooking chamber configured to send an output signal to the

cooking appliance control system; **(a probe 10 sends a signal to a thermometer circuit. See Column 4, Lines 7-11. A timer switch 14 and thermometer control knob 18 make up the cooking appliance control system. See Column 3, Lines 25-30)**

a guide device; and **(a push rod frame 48 and a round base cavity 55 act as a guide device. The crank 58 guides the door to an open or closed position. See Column 5, Lines 4, 17, 35 and Figs 3 and 4)**

a door opening device including a positioning motor **(the ram actuator 42 is a positioning motor for opening the door. See Column 4, Lines 66-70)** and a rod configured to be automatically reciprocated in the guide device by the cooking appliance control system via the positioning motor **(the ram 47 or rod is moved by the ram actuator or motor in the guide device made of push rod frame 48 and round base cavity 55)** so as to automatically move the door from the closed position to the predetermined open position **(oven door is opened by the actuator. See Column 5, Lines 22-23)** and from the predetermined open position to the closed position, **(The ram returns to its original retracted position closing the oven door. See Column 7, Lines 22-23)** the cooking appliance control system configured to actuate the positioning motor as a function of the output signal so as to automatically move the door from the closed position to the predetermined open position when a cooking process is complete **(The door 7 is moved from a closed to open position when the cooking process is complete, when a timer expires or when the food reaches a preselected temperature. See Column 2, Lines 5-16)** and to actuate the positioning motor so as to

automatically return the door to the closed position when a physical quantity falls below a predetermined threshold value stored in the memory. **(The appliance is capable of closing the door when the temperature stored in its memory falls below a value since the device has all the necessary elements for performing this function. The ram will retract to its original position when the circuit is broken, closing the door. See Column 7, Lines 20-25.)**

**Regarding Claim 9:** The cooking appliance as recited in claim 7, wherein the positioning motor includes an electrically heatable shape-memory element. **(The thermometer circuit which controls the operation of the actuator 42 or motor and is part of the motor includes a bimetal strip 24 which is heated by the bimetal strip heater 25. The strip moves when heated to connect with contact 26. The strip will move and disconnect when the heat is not applied. This strip is a heatable shape-memory element. See Column 4, Lines 11-17. Also, a temperature sensitive material is located in the heating element 66 which increases or decrease in volume depending on the temperature controls the activation of the ram actuator. The material is heated and changes from a solid to liquid state axially displacing the ram. When the material solidifies it contracts and allows the ram to retract. See Column 5, Line 5 - Column 6, Line 7.)** The applicant also discloses a shape memory element device capable of opening an oven door which can be used for opening and closing a device. See Paragraph [0004] of the specification.)

**Regarding Claim 10:** The cooking appliance as recited in claim 7, further comprising a return element disposed between the door and the housing, wherein the return element is in force-transmitting connection with the door and the housing and is configured to aid the return of the door from the predetermined open position to the closed position. **(A hinge lever 33 connected to the oven door 7 is connected to a spring 35 which is secured to the body by bracket 36. This spring helps urge the door back to a closed position. See Column 4, Lines 43-50)**

**Regarding Claim 11:** The cooking appliance as recited claim 7, further comprising at least one of a spring device and a damping device mounted on the rod and configured to retard a movement of the door from the closed position to the predetermined open position. **(A spring 52 is mounted on the push rod center section 53 shown in Fig 2. This spring is capable of retarding the movement of the door from the closed to open position. See Column 5, Line 13. There is also a buffer tip 112 shown in figure 7 for the same function which can be used with the spring 52)**

**Regarding Claim 12:** The cooking appliance as recited claim 7, further comprising at least one of a spring device and a damping device mounted on the rod and configured to retard a movement of the door from the predetermined open position to the closed position. **(A spring 52 is mounted on the push rod center section 53 shown in Fig 2. This spring is capable of retarding the movement of the door from the open to**



**closed position. See Column 5, Line 13. There is also a buffer tip 112 shown in figure 7 for the same function which can be used with the spring 52)**

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Walkoe in view of Berger et al (US 2003/0010221).**

The teachings of Walkoe have been discussed above.

Walkoe fails to teach:

**Regarding Claim 8:** The cooking appliance as recited in claim 7, wherein the cooking appliance is a steam cooking appliance.

Berger et al teaches:

**Regarding Claim 8:** a steam cooking apparatus (See Paragraph [0002], Line 1)

In view of Berger et al's teachings it would have been obvious to one of ordinary skill in the art at the time of the invention to include with the teachings of Walkoe, the cooking

appliance as a steam cooking appliance since, Berger et al teaches a steam cooking apparatus for energy savings and a uniform temperature distribution in the entire cooking chamber.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kuttalek (US 2004/0231524) describes a device with a drive mechanism for opening and closing a door in a cooking appliance.

Shimizu et al (US 4,450,335) discloses a door opening apparatus for a heating appliance.

Faurel (US 5,012,794) discloses a device for closing an oven door.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRIAN JENNISON whose telephone number is (571)270-5930. The examiner can normally be reached on M-Th 7:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jared Fureman can be reached on 571-272-2391. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/BRIAN JENNISON/  
Examiner, Art Unit 4184

/Jared J. Fureman/  
Supervisory Patent Examiner, Art  
Unit 4184

12/10/08